

TWENTY EXCHANGE PLACE

OGC Has Reviewed

September 26, 1951

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[REDACTED]
Central Intelligence Agency,
2430 East Street,
Washington, D. C.

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Dear [REDACTED]

Herewith my views as a result of the three days Mr. Eric Hager and I spent with the General Counsel of your Agency.

While the time spent was necessarily quite brief, I feel that we nevertheless were able to consult sufficient personnel and other sources to get a clear picture of the General Counsel's Office and its relation to the other departments of the Agency.

We spent the better part of the three days with Mr. Houston. We interviewed other members of his staff at some length. We talked very briefly with various members of the operating departments to determine the general nature of their legal problems.

We investigated at some length the manner in which the Agency Loyalty Board operates, its composition and procedure, and some of the problems that have arisen in that connection. We also discussed the two other methods of discharging Agency personnel; that is, under Section 102(c) of the National Security Act and via administrative discharge. We discussed several actual loyalty and security cases in detail, and obtained overall figures with respect to both. We read your official procedures relating to the Loyalty Board and the Employment Review Board, and also the file of one typical loyalty case, including correspondence and transcript of the hearing.

In connection with the problem of loyalty and security cases, we interviewed Colonel Sheffield Edwards in his office with respect to the part his organization plays in the matter. From him we obtained an informal description

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of the manner in which his staff conduct their investigations and some idea of the protection accorded those who resign rather than face a formal proceeding.

We also interviewed the Acting Assistant Director of Personnel in this connection, and studied certain of the records maintained at his office.

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In connection with the acquisition and operation of certain proprietary interests, we interviewed Mr. Houston, and [REDACTED] of his office. We looked briefly at certain portions of their office file on the matter to determine the nature of the problems involved and the extent of the documentation. We also discussed the fiscal and accounting problems involved in these proprietary interests with Mr. Saunders and [REDACTED]. We talked very briefly with General Wyman and Mr. Wisner regarding the part played by the General Counsel's office in the planning and execution of procurement and proprietary matters, and its service to their departments in this regard.

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We discussed with Mr. Houston, General Wyman, Mr. Wisner and others, specific problems which had come to the General Counsel's office in the past in connection with such varied subjects as narcotics, income taxes, defectors, psychoneurotic cases, acquisition of real property, and payment and control of personnel. We examined various types of contracts with operating personnel.

Based upon the foregoing, I have these views:

(1) Mr. Houston is an able lawyer who brings to his job an experience which it would be difficult to duplicate. His philosophy of his job of General Counsel in such an agency is, I believe, a correct one; namely, that he and his staff are available as a service to the various departments and not an investigative agency to make certain that the operating personnel are conducting themselves properly.

(2) He believes, and I think rightly so, that he should have a small and flexible staff. In fact, he runs his staff very much like a law office with general partners who are able to do whatever tasks come to hand. I am sure that this is the correct way to run the General Counsel's office in such an agency as yours.

(3) From what I could observe, he has a very good spirit in his organization.

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(4) I gathered that his relations with the other departments are good. He seemed to be on easy terms with those of the operating personnel with whom we talked together, and we had over a dozen of such interviews.

(5) All lawyers in the Agency who function as such should be in the General Counsel's office and responsible to the General Counsel. While it is clearly necessary for the lawyers to have a working knowledge of operational problems and to work closely with the various operational branches, they should all be under the General Counsel. Your present system is satisfactory in this regard, but this is an important point and deserves emphasis.

(6) The General Counsel should ordinarily report directly to the head of his Agency and function as his immediate advisor. However, I understand that the present system is working well and I do not therefore suggest any change.

As a result of my investigation, I suggest you consider the following:

1. Although I found the security and loyalty procedures to be in the main well planned and carried through, with due regard for the interests of both the Government and the individuals concerned, I have the following suggestions to make in this connection:

(a) The Loyalty Board should be increased in size to include at least Assistant Directors, making possible the selection by the Chairman of the Loyalty Board of several different panels to hear cases.

(b) In each loyalty and security case, Colonel Edwards and a representative of the General Counsel's office should study the complete file and submit a written recommendation to the Chairman of the appropriate Board, indicating whether the case presents any real reason for discharge. In view of the time required for decision of even the simplest case, and the backlog which has accumulated, only those cases which involve a real possibility of discharge should be heard by a panel of Deputy Directors. Relying upon the written recommendation submitted to him, the Chairman of the Loyalty Board

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should exercise his discretion to assign junior panels to hear cases which present only technical grounds for a loyalty proceeding.

(c) In my opinion, the representative of the General Counsel's office who participates in the above recommendation to the Chairman, and who prepares the case and presents it to the particular Board, should be of a mature and judicial temperament. While I believe that Colonel Edwards is well suited to his function, I feel that the present representative of the General Counsel's office is perhaps more of an advocate by temperament than is desirable in this connection.

(d) You may have a problem in connection with those persons who resign rather than undergo a formal proceeding before the Employment Review Board or the Loyalty Board. We were given to understand that resignations for reasons of "security" were running at the rate of 8 - 10 per month, with the possibility that some additional personnel actually resigning for that reason were giving another reason for the record. The formal safeguards inherent in the Board procedures have been applicable as a practical matter to only a fraction of the persons who have left the Agency for loyalty or security reasons. In my judgment, this problem merits consideration.

2. It seems to me that the General Counsel's office is definitely understaffed in special fields. At the very least, I believe that the staff should have two first rate corporate lawyers with not less than five years' experience in the field, who could handle the legal work in the proprietary and procurement fields and act as liaison with outside counsel in their specialized fields.

3. In line with the above, and particularly because of the increase in procurement and proprietary problems, I believe that use should be made of outside counsel.

I hope that the above will prove helpful. I shall of course be glad to discuss the matter further with you or your associates at any time.

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Very truly yours,

Fredrick M. Eaton

